

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JOHN T.,¹

Plaintiff,

v.

ANDREW M SAUL, Commissioner of Social
Security,²

Defendant.

Case No. 6:17-cv-1677-AC

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on July 19, 2019. ECF 18. Magistrate Judge Acosta recommended that The decision of the Commissioner be reversed and remanded for an immediate calculation of benefits. No party has filed objections.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

¹ In the interest of privacy, this Order uses only the first name and the initial of the last name of the. non-governmental party in this case.

² Andrew M. Saul, recently confirmed as the Commissioner of Social Security, is automatically substituted as Defendant in place of Nancy A. Berryhill under Rule 25(d) of the Federal Rules of Civil Procedure.

§ 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Acosta’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Magistrate Judge Acosta’s Findings and Recommendation, ECF 18. The Commissioner’s decision is REVERSED and REMANDED for an immediate calculation of an award of benefits.

IT IS SO ORDERED.

DATED this 12th day of August, 2019.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge